

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.

C/M

★ JAN 10 2007 ★

BROOKLYN OFFICE

KERRY MARSHALL,

Movant,

-against-

MEMORANDUM AND ORDER
07-CV-0176 (BMC)

UNITED STATES OF AMERICA,

Respondent.

X

COGAN, United States District Judge:

Kerry Marshall, proceeding *pro se*, moves for the return of property seized pursuant to a search warrant on December 12, 2006. Marshall's motion lists seventeen items he seeks to recover. Marshall has not paid the filing fee nor filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a) to proceed with this action.

Accordingly, Marshall is directed to pay the statutory filing fee of \$350 or file an application to proceed *in forma pauperis*¹ within ten (10) days of the date of this Order in order to proceed with this action. No summons shall issue at this time and all further proceedings shall be stayed for ten (10) days or until Marshall has complied with this Order. If Marshall fails to pay the filing fee or file an *in forma pauperis* application within the time allowed, the instant complaint shall be dismissed without prejudice. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: Brooklyn, New York
January 18, 2007

United States District Judge

¹An application to proceed *in forma pauperis* is attached hereto.